

1 Gary J. Smith (SBN 141393)  
2 gsmith@bdlaw.com  
3 Jacob P. Duginski (SBN 316091)  
4 jduginski@bdlaw.com  
5 BEVERIDGE & DIAMOND P.C.  
6 456 Montgomery Street, Suite 1800  
7 San Francisco, CA 94104  
8 Telephone: (415) 262-4000

9 Kaitlyn D. Shannon (SBN 296735)  
10 kshannon@bdlaw.com  
11 BEVERIDGE & DIAMOND, P.C.  
12 1900 N Street, N.W., Suite 100  
13 Washington, DC 20036-1661  
14 Telephone: (202) 789-6040  
15 Facsimile: (202) 789-6190

16 Attorneys for Chiquita Canyon, LLC,  
17 Chiquita Canyon, Inc., and Waste  
18 Connections US, Inc.

19 Paul S. Chan (SBN 183406)  
20 pchan@birdmarella.com  
21 Ariel A. Neuman (SBN 241594)  
22 aneuman@birdmarella.com  
23 Fanxi Wang (SBN 287584)  
24 fwang@birdmarella.com  
25 Shoshana E. Bennett (SBN 241977)  
26 sbannett@birdmarella.com  
27 Alec M. Cronin (SBN 333774)  
28 acronin@birdmarella.com  
BIRD, MARELLA, RHOW,  
LINCENBERG DROOKS &  
NESSIM, LLP  
1875 Century Park East, 23rd Floor  
Los Angeles, California 90067  
Telephone: (310) 201-2100  
Facsimile: (310) 201-2110

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

ALEJANDRA SUAREZ, an individual,  
JUANA SUAREZ, an individual,  
SEBASTIAN SUKIASYAN, an  
individual, VICTORIA SUMMER, an  
individual, MANJULA SYAL, an  
individual, JUDITH TADENA, an  
individual, ABIGAIL TALO SIG, an  
individual, ALEA TALO SIG, an  
individual, BRYZ TALO SIG, an  
individual, MAURICE TALO SIG, an  
individual, MIKAELLA TALO SIG, an  
individual, ALEXANDER TAN, an  
individual, ANDRE TAN, an individual,  
GENEVIEVE TAN, an individual,  
KARLEE TAN, an individual, JOHN  
TAVOLIERI, an individual, TERESA  
TAVOLIERI, an individual, ELLIE  
TERRANOVA, an individual, JOSEPH  
TERRANOVA, an individual, KAITLYN  
TERRANOVA, an individual,  
MATTHEW TERRANOVA, an  
individual, MICHELLE TERRANOVA.

CASE NO.

**DEFENDANTS' NOTICE OF  
REMOVAL**

[Los Angeles Superior Court Case  
No. 24STCV15479]

*[Filed concurrently with Declarations  
of Shoshana E. Bennett and Steven J.  
Cassulo]*

Action Filed: June 20, 2024

1 an individual, JOHN TITUS CLEMONS,  
2 an individual, MARILLELY  
TOCHIHUITL BUENO, an individual,  
3 BADROLMOLOUK TOFANGDAR, an  
individual, WILLIAM TORRES, an  
4 individual, ASHTON TRACY, an  
individual, HUNTER TRACY, an  
individual, OLIVE TRACY, an  
5 individual, SETH TRACY, an individual,  
ALMA TREJO, an individual, FELIPE  
6 TREJO, an individual, TIM TROTTER,  
an individual, JANET LEE TROTTER, an  
7 individual, CERMA TRINIDAD, an  
individual, JOSE TRINIDAD FLETES,  
8 an individual, LAURA TUREK, an  
individual, MADYSYN TUREK, an  
9 individual, MAKAILYN TUREK, an  
individual, MASON TUREK, an  
10 individual, ANNABELLE TURLA, an  
individual, ROMUALDO TURLA, an  
11 individual, NATALIE TUTTLE, an  
individual, WANDA TUTTLE, an  
12 individual, BARRETT TYRRELL, an  
individual, BRANDON TYRRELL, an  
13 individual, KAYLA TYRRELL, an  
individual, MARIE JOSEPHINE UMALI,  
14 an individual, JOSHUA URIEL OCHOA,  
an individual, STEPHEN  
15 VALENZUELA, an individual,  
MARTHA VANEGAS, an individual,  
16 KASSIDY VARGAS, an individual,  
ZENEN VARGAS, an individual,  
17 OSCAR VASQUEZ RAMIREZ, an  
individual, LUIS VEGA, an individual,  
18 LUCAS VENTURA, an individual,  
NORLAND VENTURA, an individual,  
19 ODETH ARIANNA VENTURA, an  
individual, DAVID VERDIN, an  
individual, GREGORY VIVIT, an  
individual, MARCELINA VIVIT, an  
21 individual, DANIELLE VILLEGRAS, an  
individual, JOHN VILLEGRAS, an  
individual, JULIA VILLEGRAS, an  
individual, PAM VILLEGRAS, an  
individual, PETER VILLEGRAS, an  
individual, NICHOLAS VINCELLI, an  
individual, HEATHER VITALE-  
RASHTIAN, an individual, MORIAH  
VORGITCH, an individual, STEVEN  
VORGITCH, an individual, WINONA  
VORGITCH, an individual, BLAKE  
WALZ, an individual, CALEB WANG,  
an individual, ELIANA WANG, an  
individual, ELIZABETH WANG, an  
individual, TIMON WANG, an

1 individual, TOBIAS WANG, an  
2 individual, AARON WARNÉR, an  
3 individual, SAMUEL WARNER, an  
4 individual, CATHERINE  
5 WEBERHUSCHITT, an individual,  
6 CHARLES WELDON, an individual,  
7 LISA WELDON, an individual, VIRGIL  
8 EVER, an individual, ANABELLE  
9 WEXLER, an individual, DAVID  
10 WHEATON, an individual, LILY  
11 WHEATON, an individual, JOE  
12 WHEELER, an individual, ASHTON  
13 WHITAKER, an individual, CHRISTIAN  
14 WHITAKER, an individual, DASH  
15 WHITAKER, an individual, JULIE  
16 WHITAKER, an individual, WILLIAM  
17 WHITAKER, an individual, FAIDH  
18 WILSIN, an individual, BRITNEY  
19 WILSON, an individual, JEANNE  
20 WILSON, an individual, PAUL  
21 WILSON, an individual, GRACE  
22 WILSON CABRERA, an individual,  
23 DIVYA WISHARD, an individual,  
24 AMANDA WIRT, an individual,  
25 RUSSELL WOLFF, an individual,  
26 AUSTIN WOLFF, an individual,  
27 MADELINE WOLFF, an individual,  
28 WAYLON WOLFF, an individual,  
WAFE WOLFF, an individual,  
MIRANDA WOLFF, an individual,  
DAVE WRIGHT, an individual,  
HYUNSIK YOON, an individual,  
JOSHUA YOON, an individual, RYAN  
YOON, an individual, ACE YZRAEL  
FRANCO, an individual, ANDREW  
ZARAKOWSKI, an individual, CORRIE  
ZARAKOWSKI, an individual, EMILY  
ZARAKOWSKI, an individual,  
BETHANIE ZAZUETA, an individual,  
LAINIE ZAZUETA, an individual,  
SCOTT ZAZUETA, an individual,  
PAULA ZEPEDA, an individual, DENA  
ZINGELEWICZ, an individual, PHILLIP  
ZINGELEWICZ, an individual,  
KRISTOPHER LINCOLN, an individual.  
JOANN C. LOPEZ, an individual,  
WILLIAM KINSLEY, an individual,  
SHANE KINSLEY, an individual,  
SUSAN SARRASIN, an individual,  
JONA STOCKER, an individual,  
GREGORY JONATHAN STOCKER, an  
individual, MICHAEL SCHEKER, an  
individual, EVELINA GRIGORIAN, an  
individual, ANDREW SCHEKER, an  
individual, BRENDA GOMEZ, an

1 individual, JOSE FIGUERA, an  
2 individual, MARCELA FIGUERA, an  
3 individual, CAMILA NAVARRO, an  
4 individual, ALAN DAVID, an individual,  
5 TINA DAVID, an individual, VINCENT  
6 DAVID, an individual, GABRIELLA  
7 DAVID, an individual, DOMINICK  
8 DAVID, an individual,  
9

10 Plaintiffs,

11 VS.

12 CHIQUITA CANYON, LLC, a Delaware  
13 Limited Liability Company; CHIQUITA  
14 CANYON, INC., a Delaware Corporation;  
15 WASTE CONNECTIONS US, INC., a  
16 Delaware Corporation; and DOES 1-150,  
17 inclusive,

18 Defendants.

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TO THE CLERK OF THE ABOVE-ENTITLED COURT, PLAINTIFFS, AND  
THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that Defendants Chiquita Canyon, LLC  
("Chiquita"); Chiquita Canyon, Inc.; and Waste Connections US, Inc. ("WC-US")  
(collectively "Defendants"), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby  
remove the above-captioned action from the Superior Court of the State of  
California, County of Los Angeles, to the United States District Court for the  
Central District of California, Western Division, on the following grounds:

**I. BACKGROUND AND TIMELINESS OF REMOVAL**

1. On June 20, 2024, 138 individual plaintiffs ("Plaintiffs") filed  
a Complaint in the matter of *Alejandra Suarez, et al. vs. Chiquita Canyon, LLC, et al.* (Case No. 24STCV15479) in the Superior Court of the State of California,  
County of Los Angeles (the "State Court Action"). Declaration of Shoshana E.  
Bennett ("Bennett Decl."), **Ex. B.**

2. Plaintiffs' Complaint alleges that Defendants failed to properly

1 construct, maintain, and operate the landfill owned by Chiquita (the “Landfill”), and  
2 as a result, noxious fumes and odors entered Plaintiffs’ property and injured  
3 Plaintiffs.

4       3. Plaintiffs’ Complaint asserts the following causes of action:  
5 Negligence, Negligence Per Se, Strict Liability for Ultrahazardous Activities,  
6 Continuing Private Nuisance, Permanent Private Nuisance, Continuing Public  
7 Nuisance, Permanent Public Nuisance, and Trespass.

8       4. In the Complaint, Plaintiffs request damages for personal injury,  
9 property damage, damages to the health of their pets, diminution in property value,  
10 loss of use and enjoyment of property, lost wages, costs of future medical  
11 monitoring, and general damages among other categories of damages. Plaintiffs  
12 also seek an unspecified “immediate temporary injunction against Defendants to  
13 prevent further harm to Plaintiffs,” and punitive damages. Complaint, p. 34, ¶ (g).

14       5. Defendants Chiquita, Chiquita Canyon, Inc., and WC-US were served  
15 on June 28, 2024.

16       6. This Notice of Removal has been timely filed within thirty days after  
17 receipt by Defendants, through service or otherwise, of the Complaint, and within  
18 one year after commencement of the action, in accordance with 28 U.S.C. § 1446.

19 **II. VENUE**

20       7. Removal to the United States District Court for the Central District of  
21 California, Western Division, is proper under 28 U.S.C. § 1446(a) because the State  
22 Court Action was pending in Los Angeles County prior to removal, which falls  
23 within the Western Division of the Central District of California. 28 U.S.C.  
24 § 84(c)(2).

25 **III. STATEMENT OF JURISDICTION**

26       8. The State Court Action is properly removed to this Court pursuant to  
27 28 U.S.C. §§ 1332 and 1441 because (1) there is complete diversity of citizenship  
28 between Plaintiffs and Defendants; and (2) the amount in controversy exceeds

1 \$75,000, exclusive of interest and costs. Accordingly, the United States District  
2 Court for the Central District of California has jurisdiction over this case pursuant to  
3 28 U.S.C. § 1332(a)(1).

4 **A. There Is Diversity Jurisdiction Because Defendants Chiquita,  
5 Chiquita Canyon, Inc., and WC-US Are Citizens of Different States  
6 Than Plaintiffs.**

7 9. For purposes of determining diversity of citizenship, an individual is  
8 deemed a citizen of the state in which he is domiciled. *Kanter v. Warner-Lambert  
9 Co.*, 265 F.3d 853, 857 (9th Cir. 2001). A plaintiff's place of residency is evidence  
10 of his domicile absent affirmative allegations to the contrary. *District of Columbia  
11 v. Murphy*, 314 U.S. 441, 455 (1941) ("The place where a man lives is properly  
12 taken to be his domicile until facts adduced establish the contrary."); *Balboa Cap.  
13 Corp. v. Lake Transport LLC*, No. SACV 23-01429-CJC (ADSx), 2023 WL  
14 8870505, at \*2 (C.D. Cal. Nov. 9, 2023) (finding complete diversity because "a  
15 person's residence is *prima facie* evidence of domicile and citizenship").

16 10. Plaintiffs are residents of California and citizens of California. *See*  
17 Complaint ¶ 19.

18 11. A "corporation is a citizen only of (1) the state where its principal place  
19 of business is located, and (2) the state in which it is incorporated." *Johnson v.  
20 Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).  
21 A corporation's principal place of business is its nerve center—*i.e.* where the  
22 officers and/or directors control and coordinate activities. *See Hertz Corp. v.  
23 Friend*, 559 U.S. 77, 80-81 (2010).

24 12. Defendants Chiquita, Chiquita Canyon, Inc., and WC-US are all  
25 incorporated in Delaware, with principal places of business of The Woodlands,  
26 Texas. *See* Cassulo Decl., ¶ 3 (Chiquita); Bennett Decl. **E** (Chiquita Canyon,  
27 Inc.); **F** (WC-US).

28 13. Defendants Chiquita, Chiquita Canyon, Inc., and WC-US are all

1 citizens of Delaware and Texas.

2       14. Therefore, complete diversity exists between Plaintiffs and Defendants  
3 Chiquita, Chiquita Canyon, Inc., and WC-US.

4       **B. The Amount in Controversy Exceeds \$75,000.**

5       15. While Plaintiffs have not alleged a specific amount they are seeking to  
6 recover, the matter in controversy in this action, exclusive of interest and costs,  
7 exceeds \$75,000.

8       16. There are 138 plaintiffs. Therefore, each plaintiff needs to seek  
9 damages of only \$543.48 to meet the amount in controversy. Plaintiffs are seeking  
10 to recover damages for personal injuries, property damage, damage to the health of  
11 their pets, and diminution in property value. Complaint, p. 33, ¶ (c). They are also  
12 seeking loss of use and enjoyment of their real property, past and future medical  
13 expenses, displacement expenses, and lost wages. *Id.*, p. 33-34, ¶¶ (d), (e), (f).  
14 Plaintiffs also seek to recover the cost of future medical monitoring, and general  
15 damages for emotional distress/mental anguish. *Id.*, p. 34, ¶¶ (h), (i). Plaintiffs also  
16 seek punitive damages. *Id.* ¶ (j). Given the nature of the damages they are seeking,  
17 and the request for future medical monitoring and punitive damages, it is clear that  
18 Plaintiffs are seeking more than \$543.48 each, and as a result, the amount in  
19 controversy exceeds the \$75,000 minimum set forth in 28 U.S.C. § 1332(a).

20       **IV. NOTICE**

21       17. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is  
22 being served upon Plaintiff's counsel, and a copy will be filed with the Clerk of the  
23 Superior Court of California, County of Los Angeles.

24       **V. PROCEDURAL REQUIREMENTS ARE SATISFIED**

25       18. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of the process,  
26 pleadings, and orders served upon Defendants in this action are attached to the  
27 Bennett Decl., at Exhibits **A, B, and C**.

28       WHEREFORE, Defendants hereby remove the above-captioned action from

1 the Superior Court of the State of California, County of Los Angeles, to the United  
2 States District Court for the Central District of California, Western Division.  
3

4 DATED: July 29, 2024

Paul S. Chan  
Ariel A. Neuman  
Fanxi Wang  
Shoshana E. Bennett  
Alec M. Cronin  
BIRD, MARELLA, RHOW,  
LINCENBERG, DROOKS & NESSIM, LLP

Gary J. Smith  
Jacob P. Duginski  
Kaitlyn D. Shannon  
BEVERIDGE & DIAMOND, P.C.

12 By: /s/ Paul S. Chan

13 Paul S. Chan  
14 Attorneys for Defendants Chiquita Canyon,  
15 LLC, Chiquita Canyon, Inc., and Waste  
16 Connections US, Inc.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28